

PETITION FOR SPECIAL EXCEPTION 84-121-X

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for A Class B Office Building

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):
(Type or Print Name) Russell L. Elliott
Signature Signature

Address (Type or Print Name)
City and State Signature

Attorney for Petitioner:
R. Taylor McLean
(Type or Print Name) Address
Signature Timonium, Maryland 21093
City and State

102 W. Pennsylvania Avenue
Address
Timonium, Maryland 21204
City and State
Telephone No. 823-1800

ORDERED By The Zoning Commissioner of Baltimore County, this 22nd day of September, 1983, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 18th day of November, 1983, at 1:30 o'clock p.m.

By: [Signature]
Zoning Commissioner of Baltimore County.

E.C.O.-No. 1

(over)

RE: PETITION FOR SPECIAL EXCEPTION BEFORE THE ZONING COMMISSIONER
NW Corner of Timonium Rd. and Gerard Ave., 8th District
OF BALTIMORE COUNTY

RUSSELL L. ELLIOTT, Petitioner : Case No. 84-121-X

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or date which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman John W. Hession, III
Deputy People's Counsel People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 10th day of October, 1983, a copy of the foregoing Order was mailed to R. Taylor McLean, Esquire, 102 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner.

John W. Hession, III

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 25, 1983

COUNTY OFFICE BLDG.
111 W. CHESTER AVE.
TOWSON, MARYLAND 21204
Chairman

R. Taylor McLean, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 49 - Case No. 84-121-X
Petition - Russell L. Elliott
Special Exception Petition

Dear Mr. McLean:

The Zoning Plans Advisory Committee and the County Review Group (CRG) have both reviewed the plans submitted with the above-referenced petition. The following comments from the CRG have been substituted for those of the Zoning Plans Advisory Committee. They are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your proposal to construct an office building on the property, this hearing is required.

This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:mr

Enclosures

cc: Cicero H. Brown, Jr.
1008 Hart Road
Towson, Maryland 21204

COUNTY REVIEW GROUP MEETING Thursday, September 22, 1983

RUSSELL ELLIOTT PROPERTY

COUNTY REVIEW GROUP - THOSE PRESENT*

Gilbert S. Benson, Chairman - Dept. of Public Works
E. A. Bober - Planning & Zoning
Robert Powell - Health Dept.
Michael Flanigan - Traffic Engineering
Thomas F. McDonough - Attorney
Cicero H. Brown - Architect
J. Strong Smith - Engineer for Developer
Russell Elliott - Developer
*Attachment - Interested citizen

The meeting was called to order at 1:30 p.m. by Mr. Benson, Chairman of the County Review Group. He introduced the members of the Committee and stated the purpose of the meeting.

Mr. John Smith, developer's engineer, presented the plan. They propose to construct a 3-story office building at this location. Entrance to the site shall be from Timonium Rd. Location of the building as shown on the plan provides parking in front of the building which is most desired by the owner. Storm water management is proposed for this site.

Mr. Eugene Bober, co-chairman of the CRG, summarized all of the written comments submitted by the concerned County agencies who are Developers Engineering Division, Office of Planning, Office of Zoning, Fire Prevention Bureau, Health Department, Traffic Engineering, and Dept. of Permits & Licenses. Mr. Bober's summary is as follows:

A driveway change was proposed by Traffic Engineering in order to locate the entrance opposite Hathaway Rd. on the east side of Timonium Rd. It was also proposed to widen the driveway to 24' which would require the shifting of the building approximately 60' to the west of its present location. A copy of this proposal was presented at the meeting for the developer's guidance.

Under the provisions of the Baltimore County Code, Title 22 Section 104 R.O. Office Building must be found by the CRG to be highly compatible with the existing community. The Committee found that this building was generally satisfactory since it will act in a way to offer some screening or buffering of the shopping center to the north. Developer is being made aware that this property has been made a Zoning issue for the 1984 maps.

RUSSELL ELLIOTT PROPERTY

-2-

September 22, 1983

The 4' x 8' freestanding sign is not satisfactory, and within an RO zone this sign cannot exceed 8 square feet. Amenity open space required is 25% of the gross site area and must be indicated on the plan.

Timonium Rd. and Gerard Ave. are improved, but it may be necessary to obtain an entrance permit from the Bureau of Public Services for this construction. Sidewalk is required along this entire frontage, and the cost of this improvement is the developer's total cost. Storm water management is required for this site. Public water and sewer exist in Gerard Ave. and Timonium Rd. and can be made available by connections. Additional fire hydrants are required for this site on both Timonium Rd. and Gerard Ave. The on-site water mains for fire protection must be installed in accordance with the N.E.P.A. Standard 24. Developer was advised that should there be any questions concerning fire protection facilities, contact the Fire Prevention Bureau.

Hydrogeological and Environmental Effects Report have been submitted and approved by the Health Dept. Developer is subject to the restrictions as established by the Health Dept. in approving this site.

Elevator proposed for this site must be in compliance with State Handicap Code. Handicap parking signs must be provided for this use.

Dennison Ln., an existing right-of-way located along the north property line of this site and the south property line of Timonium Shopping Center, should be clarified as to the status of the right-of-way and it is proposed that this right-of-way be formally closed.

After some discussion with reference to the driveway and location of the building, the developer agreed that he would relocate the building further to the east and place the parking at the rear of the building and provide access for the handicapped along the rear of the building.

CITIZEN COMMENT

Mr. Stanley Panitz, developer and owner of the Timonium Shopping Center, stated that his interest was generally with what was being constructed within this tract and seeing that Dennison Lane was legally closed as proposed by Baltimore County.

Written comments from the aforementioned County agencies were given to the developer and developer's engineer.

Developer's engineer is to revise the plan by relocating the building and parking, and the Department of Public Works and the Office of Planning approved the plan.

The meeting was adjourned at 2:30 p.m. G.S.B.

C. R. G. MEETING AGENDA

1. Convene Meeting
2. Introductory statement concerning aims and goals of development regulations
3. Introduction of County representatives
4. Presentation of Plan by developer's representative
5. Comments of County agencies
6. Citizens' comments
7. Adjourn Meeting

SIGN IN

Name
Stanley Panitz

Address
108 St. John Rd.
Baltimore 21210
433-7888

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Joseph Warfield, C.R.G. Date: _____
FROM: C. E. Burchard, Building Plans Review
SUBJECT: Russell Elliott Property, Dist. 8, Prec. 4
Timonium Road and Gerard Avenue

1. Designer should be aware of possible need for opening protectives on the north wall, see Section 1111.2 and 1111.3 depending on the type of construction. See Section 401.3.
2. Separate permits are required for razing, paving, grading, etc.
3. This structure requires an elevator in compliance with the State Handicapped Code.
4. Provide H.C. Parking Signs for each parking space on post as per code.
5. Full review of construction drawings will be performed when a permit is applied for. Applicable codes are 1981 B.O.C.A. Basic Building, Mechanical and Energy Codes, also the State of Maryland Handicapped Code known as Code of Maryland Regulation 05.01.07.

RECEIVED

SEP 23 1983

BUREAU OF PUBLIC SERVICES

FEB 23 1984

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 22.1 of the Baltimore County Zoning Regulations having been met, and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 4th day of November, 1983, that the herein Petition for Special Exception for a Class B office building, in accordance with the site plan prepared by Cicero H. Brown, Jr., revised September 21, 1983, and marked Petitioner's Exhibit 1, is hereby GRANTED, from and after the date of this Order, subject to the following:

1. All signs shall be in compliance with Sections 203.3.C and 413 of the Baltimore County Zoning Regulations.
2. The normal hours of operation shall be limited to between 7:00 a.m. and 6:00 p.m.
3. Lighting, including any security lighting, shall be of the cut-off variety and arranged to reflect light away from residences.
4. Compact screen planting, a minimum of four feet high as shown on Petitioner's Exhibit 1, shall be installed along Gerard Avenue, and shrubs shall be planted a minimum of ten feet apart along Timonium Road. Major or minor deciduous trees shall be planted a minimum of 30 feet apart along both Gerard Avenue and Timonium Road whenever existing trees need replacing.
5. Installation of sidewalk and preservation of existing trees along Gerard Avenue shall be by mutual agreement between the developer and Baltimore County.
6. A revised site plan shall be submitted and approved by the Office of Planning and Zoning, including landscaping and screening required for approval by the Current Planning and Development Division.
7. No building permits shall be issued until the expiration of any and all appeal periods.

John M. Jones
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE November 4, 1983

BY May Compagno

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: September 20, 1983
FROM: Edward A. McDonough, P.E., Chief
Developers Engineering Division
PROJECT NAME: Russell Elliott Property
PROJECT NUMBER: #83135
LOCATION: Timonium Road and
Gerard Avenue
DISTRICT: 8C4

The Plan for the subject site, dated August 25, 1982, with the latest revision dated August 23, 1983, has been reviewed by the Developers Engineering Division and we comment as follows:

GENERAL COMMENTS:

- * The Developer must clarify the status of Dennison Lane before proceeding with any new construction.

HIGHWAY COMMENTS:

Curb and gutter exist along the entire frontage of this site. When the existing driveway is removed, combination curb and gutter must be installed.

- * Sidewalks are required adjacent to the public roads serving this site. The walks shall be 5 feet wide and shall be installed to conform with Baltimore County Standards (Detail R-19) which places the back edge of the sidewalk 2 feet off the property line. Along Gerard Avenue the walk shall abut the curbing.

It shall be the responsibility of the Developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The Developer shall be responsible for the submission of all necessary plans and for all costs of acquisition and/or abandonment of these rights-of-way.

In accordance with Bill No. 32-72, street lights are required in all subdivisions. The Developer will be responsible for the full costs of installation of the cable, poles and fixtures. The County will assume the cost of the power when the streets have been accepted for County maintenance.

BALTIMORE COUNTY, MARYLAND

TO: Mr. Robert Morton DATE: September 15, 1983
FROM: C. Richard Moore
SUBJECT: C.R.G. COMMENTS
PROJECT NAME: Russell Elliott Property C.R.G. PLAN: X
PROJECT NUMBER & DISTRICT: 8C4 DEVELOPMENT PLAN:
LOCATION: Timonium Road and Gerard Ave. RECORD PLAT:

- * Realign driveway to be directly opposite Hathaway Road.
- Install 15' radius at driveway and road. * Widen driveway to 24' at entrance, and move building and parking lot 60' west of present location.

C. Richard Moore
C. Richard Moore
Acting Deputy Director
Traffic Engineering

CRM/MSF/ccm

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS DATE: September 19, 1983
FROM: OFFICE OF PLANNING AND ZONING
PROJECT NAME: Russell Elliott Office Building PLAN: XXXXXXXXXXXXXX
COUNCIL & ELECTION DISTRICT: VIII-368 PLAN EXTENSION:
C-6 REVISED PLAN:
PLAT:

Northwest corner of Gerard Avenue and Timonium Road.

This plan proposes a 3 story building of approximately 35,000 square feet with 90 parking spaces. The plan is generally acceptable to this office. Under the provisions of Baltimore County Code Title 22 Section 104 R.O. Office Building must be found by the CCG to be highly compatible with the existing community. In this instance we are generally satisfied that the placement of the proposed building will act in a way as to offer some screening and buffering from the shopping center to the north. However, we do have a concern that it will need to be demonstrated that the landscaping proposed along Gerard Avenue is sufficient to provide an attractive screen. The handicapped spaces should be relocated so that they are all contiguous to the building. The road designated as "existing paved construction road" that connects to Gerard Avenue should be removed.

- * The applicant should be aware that this property has been made a zoning issue for the 1984 maps.

E. B. B.

Eugene A. Bober
Chief, Current Planning and Development

EAR:rh

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS DATE: September 22, 1983
FROM: ZONING
PROJECT NAME: Russell Elliott Property PLAN: X
LOCATION: N/W Corner of Timonium Road DEVELOPMENT PLAN:
and Gerard Avenue
DISTRICT: 8th Election District PLAT:

1. Note on Plan, "Zoning Reclassification Case No. R-82-188 by appeal to the Court of Special Appeals No. 1726, by the People's Counsel of Baltimore County, Granted R-O Zoning on this site 7/27/1983." There has been no subsequent appeal to this decision or writ filed within the 30 days; therefore, the Zoning Office can proceed with the Special Exception Hearing filed for on 8/8/1983 under Item No. 49.
- * 2. A 4' x 8' freestanding sign is indicated in the notes. R-O Zone permits one sign on the building of 8 square feet. Clarify if a variance to this requirement will be applied for.
3. Parking and Screening - Parking notes should indicate that if any medical offices would be proposed that they would be located on the first floor and screening of all parking areas should be noted as minimum 4' high, dense and type.
4. Amenity Open Space required is 25% of the gross site area and should be indicated.
- * 5. The maximum height of a "B" office building is 35 feet. This should be shown clearly on the elevation drawings. If the height is 36'6" as indicated on the building on the site plan, a variance would be required.

W. Carl Richards, Jr.
W. CARL RICHARDS, JR.
Zoning Associate III

WCR:nr

7/82bac

Project #83135
Russell Elliott Property
Page 2
September 20, 1983

HIGHWAY COMMENTS: (Cont'd)

The entrance locations are subject to approval by the Department of Traffic Engineering.

Entrances shall be a minimum of 24 feet and a maximum of 35 feet wide, shall have 10-foot minimum radii curb returns, shall be located a minimum of 15 feet from any property line, and shall be constructed in accordance with Baltimore County Standards (Details R-30 and 32, 1977 Edition), as the Developer's total responsibility.

Prior to removal of any existing curb for entrances, the Developer shall obtain a permit from the Bureau of Public Services, Attention: Mr. C. E. Brown, 494-3321.

STORM DRAINS, SEDIMENT CONTROL AND STORM WATER MANAGEMENT COMMENTS:

The Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - and the deeding in fee to the County of said rights-of-way. Preparation of all construction, rights-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside of the development, are also the responsibilities of the Developer.

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the Developer's responsibility. However, a drainage area map, scale 1"=200', including all facilities and drainage areas involved, shall be shown on a plan and submitted to Baltimore County.

The Developer must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Developer.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm water management drawings must be reviewed and approved prior to the recording of any record plat or the issuance of any grading or building permits.

In accordance with Baltimore County Council Grading Ordinance (Bill No. 10-77) a grading plan shall be approved and a Performance Bond posted prior to issuance of a grading permit. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

Project #83135
Russell Elliott Property
Page 3
September 20, 1983

STORM DRAINS, SEDIMENT CONTROL AND STORM WATER MANAGEMENT COMMENTS: (Cont'd)

The Developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road rights-of-way following completion of the initial grading of the boxed-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the Baltimore County Sediment Control Manual. Minimum acceptable stabilization measures will be as specified in the Baltimore County Sediment Control Manual under "Critical Area Stabilization (With Semi-Permanent Seedings)".

Failure by the Developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

- * A permanent method for retaining storm water runoff in excess of the original runoff based on a 2-year frequency storm must be provided on the site.

Storm water management must comply with the requirements of the 1982 Baltimore County Storm Water Management Policy and Design Manual adopted January 17, 1983.

Sediment control provisions will be required for the building permit application, and for any grading or paving permit.

WATER AND SANITARY SEWER COMMENTS:

Water and sewer exist in both Gerard Avenue and Timonium Road.

Permission to obtain additional water and sewer connections from the existing mains or to add additional fixtures to the mains may be obtained from the Department of Permits and Licenses.

This property is subject to a Water and/or Sewer System Connection Charge based on the size of water meter utilized.

The total Water and/or Sewer System Connection Charge is determined, and payable, at time of plumbing permit application. This Charge is in addition to the normal front foot assessment and permit charges.

Fire hydrants are required to protect this site. Location and number of hydrants must be approved by the Baltimore County Fire Bureau.

The Developer is responsible for the cost of capping or plugging any existing house connection not used to serve the proposed site.

The Developer will be given credit for one System Connection Charge for each existing house connection.

Project #83135
Russell Elliott Property
Page 4
September 20, 1983

WATER AND SANITARY SEWER COMMENTS: (Cont'd)

The Developer is entirely responsible for the construction, and the cost of the construction and maintenance, of his onsite private water lines and sanitary sewerage, which must conform to the Baltimore County Plumbing Code.

This site is subject to the sewer allocation policy as established by the Baltimore County Council.

The Plan may be approved subject to the above comments.

Edward A. McDonough
EDWARD A. McDONOUGH, P.E., Chief
Developers Engineering Division

EM:HSW:ss

cc: File

BALTIMORE COUNTY, MARYLAND Form 203 9/21/73

SUBJECT: SUBDIVISION REVIEW COMMENTS

DATE: September 7, 1983

FROM: BALTIMORE COUNTY FIRE DEPARTMENT, FIRE PREVENTION BUREAU
Captain Joseph Kelly and John Bryan

PROJECT NAME: Russell Elliott Property PRELIMINARY PLAN

PROJECT NUMBER: CRG Agenda 9-22-83 1:30p.m. TENTATIVE PLAN

LOCATION: Timonium Road & Gerard Avenue DEVELOPMENT PLAN

DISTRICT: District 8 FINAL PLAN

1. New public firehydrants are required to be provided along the improved roads in accordance with the Baltimore County Standard Design Manual at the following locations:
A. On Timonium Road 300' north of existing hydrant shown on plan.
B. On Gerard Avenue 300' from its intersection with Timonium Road.

2. On site water mains for fire protection must be installed in accordance with NFPA Standard 24.

3. Proposed building must be designed and constructed in accordance with the Fire Prevention Code and NFPA 101 Life Safety Code.

4. Any fire department standpipe connection serving an automatic sprinkler and/or standpipe system must be located within 50 feet of an approved fire hydrant.

September 11, 1983

COUNTY REVIEW GROUP
COMMENTS ON PROPOSED SUBDIVISION PLANS
BALTIMORE COUNTY DEPARTMENT OF HEALTH

Russell Elliott Property
Subdivision Name, Section and/or Plat

Russell Elliott
Developer and/or Engineer

Lech Raven Reservoir
Watershed No. of Lots 1.5 Total Acreage Public Public
or Units Water Sewer

COMMENTS ARE AS FOLLOWS:

Soil percolation tests are required; a minimum of two test are required within a designated 10,000 square foot sewage disposal reserve area. For further information regarding these requirements, contact this office at 494-2762.

Soil percolation test have been conducted. Revised plans, must be submitted prior to approval of plat. are not required and the plat can be approved as submitted. Contact this office for more complete information, 494-2762.

Public sewers, public water, must be utilized and/or extended to serve the property.

A Hydrogeological Study and Environmental Effects Report for this subdivision, must be submitted, is not required, is incomplete and must be revised, have been reviewed and approved.

A Water Appropriation Permit Application, must be submitted, has been submitted. NOTE: Greater than 33 lots necessitates a public hearing with Water Resources Administration as part of the permit process.

It is recommended the plan, be approved as submitted, be approved as submitted subject to the following conditions noted: in the attached memo dated September 12, 1983.

It is recommended this plan not be approved at this time. Set revisions and/or comments.

REVISIONS AND/OR COMMENTS: NO

SS 783R

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Brooks H. Stafford Date: September 12, 1983

FROM: J. Robert Pavell

SUBJECT: ENVIRONMENTAL EFFECTS REPORT - Russell Elliott Property
CRG Meeting, September 22, 1983, 1:30 p.m.

Plan Review Notes:

- One office building on 1.5 acres.
- Public water and sewer.
- Loch Raven Reservoir watershed.
- No hydric soils onsite.
- No streams onsite.
- Storm Water Management is required.
- Proposed impervious area - 46% of total site.
- Proposed Best Management Practices:
 - The entire parking lot is to be kept clean of debris by the use of a gasoline powered, vacuum debris collector at a frequency of three times per week. (The developer has agreed in writing, to perform the above named Best Management Practices.)

Responses:

The Environmental Effects Report is approved, subject to the following conditions.

- The owner agrees in writing to comply with the following Best Management Practices at this site.
 - All areas except that used for buildings, sidewalks and paved parking will be planted with vegetated cover and/or landscaped as soon as possible after final grading and maintained in such condition.
 - Snow removal will be by mechanical means except in severe snow and ice conditions, when deicing compounds may be used.
 - Application of fertilizers, herbicides and pesticides will not exceed recommendations of the University of Maryland Cooperative Extension Service.
 - Filling will not occur in grassed or lined drainage ditches or swales.

JRP:pb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Care Bober, Chief
TO: Current Planning & Development Div. Date: 22 SEPT 83

FROM: Comprehensive Planning Division

SUBJECT: CRG Comments on RUSSELL ELLIOTT PROPERTY

GENERAL COMMENTS:

ENVIRONMENTAL COMMENTS:
No historic or archaeological sites.--J. McGrain

LOS COMMENTS:

TRANSPORTATION COMMENTS:
NO KNOWN CONFLICT W/ TR. ELEMENT
OF MASTER PLAN

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent Towson, Maryland - 21204

Date: August 22, 1983

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: August 23, 1983

RE: Item No: 49, 50, 51, 52, 53 & 54
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

The above mentioned item numbers have no adverse effect on student population.

Very truly yours,
Nick Petrovich Assistant
Department of Planning

WNP/bp

MANDATE

Court of Special Appeals of Maryland

No. 1726, September Term, 1982

The People's Counsel for
Baltimore County

July 27, 1983 - Per Curiam filed.
Judgment affirmed, costs to be
paid by People's Counsel for
Baltimore County.

August 26, 1983 - Mandate issued.

Doris S. Flynn

STATEMENT OF COSTS:

In Circuit Court: for Baltimore County

Record 30.00
Stenographer's Costs None

In Court of Special Appeals:

Filing Record on Appeal 30.00
Printing Brief for Appellant 576.00
Reply Brief
Portion of Record Extract - Appellant
Printing Brief for Cross-Appellee

Printing Brief for Appellee 48.00
Portion of Record Extract - Appellee
Printing Brief for Cross-Appellant

STATE OF MARYLAND, Set:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand and affixed the seal of the Court of Special Appeals, this Twenty-sixth day of August A.D. 1983.

PETITIONER'S
EXHIBIT 4

Clerk of the Court of Special Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

E. 77

IN THE MATTER OF THE APPLICATION OF DORIS S. FLYNN FOR REZONING OF PROPERTY FROM D.R. 5.5 to R.O. NW corner Timonium Road and Gerard Avenue 8th District

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY No. R-82-188

OPINION

This case comes before this Board on petition for reclassification from D.R. 5.5 to an R.O. zone for property located on the northwest corner of Timonium Road and Gerard Avenue in the Eighth Election District of Baltimore County, said property containing some 1.52 acres.

The testimony presented produced the following facts regarding the subject site. The parcel is all that remains from farmland on which the existing home was erected forty years ago. There is also on the property a garage and an old carriage house in need of repair or remodeling.

Mrs. Doris Flynn, Petitioner, testified that her mother resided on this property and wanted nothing more than to remain there until she passed away, which occurred in 1979. In 1980, Mrs. Flynn officially, through inheritance, became the legal owner of the site. She stated that due to the proximity of commercial use virtually surrounding the site, she considered it no longer suitable for a residence. This commercial use was presented in detail:

Along the north property line the subject site abuts a large Mobil gasoline station and a large B.L. owned shopping center. To the west the subject site abuts a 2-1/2 story office building on land zoned R.O. This office building in turn abuts heavy commercial use along York Road. Across Gerard Avenue there are individual homes on land zoned D.R. 5.5. It should be noted, however, that the homes directly across Gerard Avenue front on Timonium Road with their rear yards on "Gerard Avenue."

Mrs. Flynn testified that when she inherited the property in 1980 she was not familiar with zoning procedures and, therefore, this site was not made an issue in the 1980 comprehensive map process. She also noted the debris on the property associated with the shopping center, the lack of adequate screening, the heavy traffic, both on the streets and trucks,

PETITIONER'S
EXHIBIT 2

E. 77

DORIS S. FLYNN - R-82-188

2.

etc., on the shopping center property, that she would prefer not to live there under these conditions and that she, in good conscience, could not offer it for sale as a viable residence.

Mr. George Cavett, a Planner, testified in support of Mrs. Flynn's petition. He also described in detail all the surrounding uses and agreed that residential use was no longer feasible. He testified that had this property been an issue on the 1980 comprehensive map, it so nearly fits all of the R.O. zone requirements that it would have been proper to grant same.

Mr. James Howell, Baltimore County Planner, testified in support of the Planning Board's recommendation that the property be split and R.O. granted for the west portion, but that D.R. 5.5 be retained on the east portion. He agreed with all area descriptions previously presented. He testified that this was a difficult parcel to zone because of the existing homes in the area and the existing commercial use, and would prefer that the site be dealt with comprehensively rather than by petition. This basically concluded testimony in this case.

Bill No. 13-80 amended the R.O. zones. Section 203.2 states: "The R.O. zoning classification is established, pursuant to the findings stated above (Sections 203.1A, 203.1B and 203.1C), to accommodate houses converted to office buildings and some small class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to use allowable in moderate density residential zones. [Emphasis added.] This property appears to match the intention of Bill 13-80 perfectly. The amendment of commercial usage surely removes some of the potential for residential use under today's accepted standards for residential use. The Board notes especially that R.O. zoning was granted for the property abutting on the west on the 1980 comprehensive map. It is unlikely to assume that had this site also been an issue at that time that it would have been denied. Section 2-58.1J of the Baltimore County Code, 1980 Supplement, authorizes this Board to grant this requested reclassification if its present

E. 20
DORIS S. FLYNN - #2-188

3.
The Board is of the opinion that the present zoning of D.R. 5.5 for this site is in fact in error and that the requested R.O. zoning would provide a reasonable use of the property, and would also provide a buffer area between the shopping center and the homes on Gerard Avenue, and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 21st day of July, 1982, by the County Board of Appeals, ORDERED that the rezoning petitioned for from a D.R. 5.5 zone to an R.O. zone, be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hession, Chairman

Patricia Phipps

Kath S. Frame

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Zoning Commissioner Date: October 17, 1983
FROM: Norman E. Gerber, Director
Office of Planning and Zoning
SUBJECT: Russell L. Elliott
84-121-X

Please consider the comments of the CRG dated September 22, 1983 to be the comments of this office.

Norman E. Gerber per J. Hession
Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:cav

DRSC WILLIAM STEPHENS, JR. & ASSOCIATES
ENGINEERS
403 ALLEGANY AVENUE TOWSON, MARYLAND 21204

August 28, 1981

Beginning for the same on the northwest side of Timonium Road, 80 feet wide, where it is intersected by the south side of an Existing 16.5 foot Road, as shown on the plat entitled "Resubdivision Plat, Part of Sections A - B and C - Yorkshire and Part of Haverford" dated May 1954 and recorded among the Plat Records of Baltimore County in Plat Book G.L.B. 22 folio 25; said place of beginning being measured North 21°42'57" East 158.97 feet from the centerline intersection of Timonium Road and Hathaway Road; thence from said place of beginning, binding on the northwest side of Timonium Road, the two following lines: (1) South 36°17'20" West 210.13 feet and (2) southwesterly by a curve to the right having a radius of 957.49 feet for the distance of 22.06 feet, said curve being subtended by a chord bearing South 36°56'57" West 22.06 feet, thence leaving said Road, binding on the file leading to the north side of Gerard Avenue, as shown on said Plat, (3) westerly by a curve to the right having a radius of 25.00 feet for the distance of 39.39 feet, said curve being subtended by a chord bearing South 82°45'01" West 35.44 feet to the northerly side of said Gerard Avenue 40 feet wide, thence binding on said side of said Avenue, the two following lines: (4) northwesterly by a curve to the left having a radius of 120.00 feet for the distance of 87.04 feet, said curve being subtended by a chord bearing North 72°53'15" West 85.14 feet and (5) South 86°20'00" West 210.94 feet, thence leaving Gerard Avenue, binding on the existing R.O. zone line, (6) North 11°58'00" West 156.98 feet to intersect the south side of the aforementioned 16.5 Foot Road, thence binding on said side of said Road, (7) North 86°58'19" East 497.73 feet to the place of beginning.

Containing 1.540 Acres of land more or less.

Charles L. Starks
#3026



PETITION FOR SPECIAL EXCEPTION

8th Election District

ZONING: Petition for Special Exception
LOCATION: Northwest corner of Timonium Road and Gerard Avenue
DATE & TIME: Tuesday, November 1, 1983 at 1:30 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for a Class B office building

All that parcel of land in the Eighth District of Baltimore County

Being the property of Russell L. Elliott, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

October 25, 1983

R. Taylor McLean, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Exception
NW/corner Timonium Road and
Gerard Avenue
Russell L. Elliott - Petitioner
Case No. 84-121-X

Dear Mr. McLean:

This is to advise you that \$83.68 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

ARNOLD JABLON
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 122963

DATE: 11/1/83 ACCOUNT: R-01-615-000

AMOUNT: \$83.68

RECEIVED FROM: R. Taylor McLean, Esquire
FOR: Advertising & Posting Case #84-121-X
(Russell L. Elliott)

106*****82681b 5028A

VALIDATION OR SIGNATURE OF CASHIER



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

November 4, 1983

R. Taylor McLean, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
NW/corner of Timonium Rd. and
Gerard Avenue - 8th Election
District
Russell L. Elliott - Petitioner
NO. 84-121-X (Item No. 49)

Dear Mr. McLean:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,
JEAN M.H. JUNG
Deputy Zoning Commissioner

JMHJ/mc

Attachments

cc: John W. Hession, III, Esquire
People's Counsel

October 1983

R. Taylor McLean, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING
Re: Petition for Special Exception
NW/corner of Timonium Road and
Gerard Avenue
Russell L. Elliott - Petitioner
Case No. 84-121-X

TIME: 1:30 P.M.

DATE: Tuesday, November 1, 1983

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 119369

DATE: 8-8-83 ACCOUNT: R-01-615-000

AMOUNT: 100.00

RECEIVED FROM: R. Taylor McLean, Esquire
FOR: Advertising & Posting Case #84-121-X
(Russell L. Elliott)

106*****82681b 5028A

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

August 19, 1983

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

ooo
Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

R. Taylor McLean, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 49
Petitioner: Russell L. Elliott
Special Exception Petition

Dear Mr. McLean:

Please be advised that the above petition must be submitted for review by the County Review Group (CRG). I suggest that this be done at the same time that the special exception is being processed.

If you have any additional questions, please do not hesitate to contact me at 494-3391.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

83-1835

8/11/83 10:00 AM
make copy
of appeal
for me

ROYSTON, MUELLER, McLEAN & REID
ATTORNEYS AT LAW

SUITE 600
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
(301) 823-1800

August 8, 1983

Mr. Nicholas B. Commodari
Chairman, Zoning Advisory Committee
Room 113
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Russell L. Elliott
Petition for Special Exception
Class B Office Building (RO Zone)

Dear Mr. Commodari:

This is to let you know that the zoning appeal pending before the Court of Special Appeals on the above-referred to property (20 Gerard Avenue) has been decided by that Court. The Court affirmed the Order of the Circuit Court and the Board of Appeals for Baltimore County granting the RO zoning for the subject property. Enclosed is a copy of the Opinion of the Court of Special Appeals.

Sincerely yours,

R. Taylor McLean

RTMcl:tmj
Enc.

cc: Russell L. Elliott

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1726

September Term, 1982

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

v.

DORRIS S. FLYNN

Liss
Adkins
Getty, JJ.

Per Curiam

Filed: July 27, 1983

PER CURIAM:

This case arises out of a petition filed by Dorris S. Flynn, appellee, for zoning reclassification of 1.54 acres of land located at the northwest corner of Timonium Road and Gerard Avenue in Baltimore County, Maryland. The appellee became the owner of the parcel of ground by inheritance in 1980 as the result of the death of her mother. In 1980, upon the adoption of the comprehensive zoning maps for Baltimore County, the subject property was carried over as DR 5.5 from the earlier map adopted at the time of the last prior comprehensive zoning. Mrs. Flynn, who lives primarily in Florida, was unaware of the map adoption procedure. Her mother, when the map was adopted in 1980, was 90 years of age. Shortly after the distribution of her mother's estate the appellee filed her petition to have the zoning of the property reclassified from the DR 5.5 residential zone to the Residential Office (RO) zone which was newly available at the time the 1980 map was adopted.

Appellee's petition, based on error in the map, was considered by the Planning Board of Baltimore County, with all other petitions for reclassification there pending under Baltimore County's cyclic zoning procedure. That Board recommended that .90 acres of the 1.54 acre site be reclassified RO and the remainder remain DR 5.5. Thereafter, the petition was heard before the Board of Appeals of Baltimore County. People's Counsel for Baltimore County, the appellant herein, was the only opponent who appeared in opposition to appellee's petition.

The Board of Appeals found that the continuance of the DP 5.5 zone for this property on the 1980 map was error and that

the RO zone fitted the property perfectly. It concluded that because of adjacent commercial activity and heavy commercial traffic, the property involved could no longer be reasonably restricted solely to uses allowable in moderate density residential zones. The Board stated:

The encroachment of commercial usage -- removes some of the potential for residential use under today's accepted standards for residential use. . . . Section 2-58.15 of the Baltimore County Code, 1980 Supplement, authorizes this Board to grant this requested reclassification if its present zoning is in error. The Board is of the opinion that the present zoning of DR 5.5 for this site is in fact in error and that the requested RO zoning would provide a reasonable use for this property and would also provide a buffer area between the shopping center and the homes on Gerard Avenue and will so order.

The Board of Appeals entered an order granting appellee's petition for reclassification of the property from a DR 5.5 zone to an RO zone.

Appellant entered an appeal from this order in the Circuit Court for Anne Arundel County. The Circuit Court affirmed the Board of Appeals on November 9, 1982. The trial judge, in a brief opinion filed with his order, found that the Board had before it legally sufficient evidence to support its decision and that the Board's action was not arbitrary, capricious or erroneous. It is from this order that the instant appeal was filed. The appellant raises a single issue to be decided by this appeal; i.e., whether the County Board of Appeals wrongfully decided in favor of a petition for zoning reclassification where there was no substantial evidence to support a finding of error in the comprehensive zoning

3. and the Board chose effectively to substitute its preference for that of the county council?

The subject property is located at the northwest corner of Timonium Road and Gerard Avenue. On the lot of approximately 1.54 acres are located two occupied two-story dwellings. To the north across a right of way are commercial enterprises forming part of the Timonium Shopping Center, zoned BL (Business Local). Immediately to the west is an office building zoned RO. Across Timonium Road and Gerard Avenue to the east and south are several single family dwellings zoned DR 5.5.

During the 1980 map process, the subject property was included in the countywide comprehensive rezoning but was not identified as a specific issue. Upon the filing of this petition, requesting RO zoning, the Planning Board reviewed the property and recommended that the westernmost .90 acre be changed to RO leaving the remainder in DR 5.5. The Board of Appeals granted RO zoning for the entire tract which would entitle the owner to convert the existing buildings to office use, or in the alternative, to raze them and construct a new Class "B" office building, subject to approval by special exception. Such a building could potentially contain three stores with 33,000 square feet of floor space and 25,000 square feet of parking area.

1. None of the owners of these properties objected to the proposed change of the zoning or property here involved and they are not parties to this proceeding.

4. At the hearing before the Board of Appeals the appellee appeared and testified concerning the noise and odors from the various commercial uses to the north of the property here involved. These commercial uses included a gas station, a theatre, a Chinese restaurant and fish market. She also noted other commercial uses on York Road to the west including the Timonium Race Track, and a 7-11 store on the south side of Timonium Road. There was substantial testimony concerning the traffic on York Road, Gerard Avenue and the Timonium Shopping Center and its effect on the instant property.

The applicant offered as an expert, George Gavrelis, the former Director of Planning for Baltimore County. Mr. Gavrelis was well acquainted with the property and his full and careful description of the extensive commercial uses surrounding the subject property and the general neighborhood was accepted as accurate by the planner for Baltimore County, James Hoswell, who testified for the People's Counsel. Mr. Gavrelis advised the Board of Appeals that commercial development of the area had continued since the last comprehensive zoning. He stated that a building had been constructed near the subject property occupied by a dress shop, a frame shop, a health food shop and the fish market "which brings the actual commercial building - - possibly removed by about 50 feet from the subject property." He testified that the portion of Gerard Avenue in front of the subject property had become a shortcut for vehicular traffic attempting to avoid the Timonium-York Road intersection.

5. Mr. Gavrelis testified unequivocally that the DR 5.5 zoning continued on the 1980 map constituted error. He noted the failure of the comprehensive map to identify the unique impact of the surrounding commercial and office uses on the subject property, such as "the noise, head-on parking, adjacency to either commercial or office properties, the lack of screening." He concluded that residential use, existing or potential, was not feasible, reasonable or tenable on this property.

He stated his opinion that the map was also in error because the County Council failed to apply to the subject property the newly enacted and available RO zone which suited it to perfection. Mr. Gavrelis stated:

It is my conclusion that this property is not reasonable for residential uses.

I believe it is perfectly suited for office usage within the context of the RO zone, knowing the legislative policy which created that RO zone recognized that there were circumstances where continued moderate residential development was no longer reasonable or feasible, and that the conversion of existing dwellings or even the erection of a new office structure, was a more rational way of dealing with the land use and zoning potentials on a property.

The appellant offered as its expert James Hoswell, the County Planner, whose responsibilities include the review and evaluation of reclassification petitions. He opined that the comprehensive zoning process was the appropriate vehicle to consider this property and "other properties in the immediate area - - that are also impacted by adjacent non-residential uses." On cross-examination, however, when Mr. Hoswell was asked whether he had

6. "any objection" to Mr. Gavrelis' planning conclusion, he declined to use the word "objection" and substituted the phrase "perhaps, some hesitation." He conceded he agreed 95% on Mr. Gavrelis' planning solution as it affected the rear portion of the property. Mr. Hoswell also concluded that the Planning Board recognized that it was error to zone the property DR 5.5. In explaining the Planning Board's recommendation that about two-thirds of the property be rezoned RO, he assumed that this amounted to an acknowledgement that it "recognize[d] an error in the zoning of the property."

There is, of course, no dispute that there is a strong presumption of the correctness of original zoning and of comprehensive zoning. "[S]trong evidence" of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting a reclassification is arbitrary and capricious." *Boyce v. Sembly*, 25 Md. App. 43, 50 (1975).

We said in *People's Counsel v. Williams*, 45 Md. App. 617, 624 (1980), quoting from *Tennison v. Shonette*, 38 Md. App. 1, 5 (1977):

Once evidence strong enough to render the issue of rezoning fairly debatable is produced, the change in zoning will be upheld since it is not the function of the courts to substitute their judgment for that of the zoning authority.

Both the appellant and the appellee cite the recent case of *Howard County v. Dorsey*, 292 Md. 351, 355 (1982), in support of

their positions. In that case the Court of Appeals, quoting from *Stratakis v. Beauchamp*, 268 Md. 643, 652-653 (1973), stated the test on judicial review to be as follows:

... Where a legislative body, or a board of county officials, pursuant to authority conferred upon it, has granted a rezoning of property, the question on judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable.

Our reading of *Dorsey* convinces us that it is more supportive of the appellee's contention in this case than that of the appellant because of the factual posture of this controversy. In *Dorsey*, the County Council, sitting as the Zoning Board, had before it a requested reclassification to a manufacturing zone of three acres of residentially zoned land out of a total tract of 15 acres, all of which was residentially zoned. The Howard County Zoning Board denied Dorsey's request to reclassify the zoning of a portion of his land from residential to manufacturing.

On appeal, the Circuit Court for Howard County reversed the order of the Board. On appeal to this Court, the order of the Circuit Court was affirmed in *Howard County v. Dorsey*, 45 Md. App. 692 (1980). The Court of Appeals granted certiorari and reversed the judgment of this Court. The Board had based its refusal to reclassify primarily on a General Plan for Howard County which contemplated residential use of the property in support of a neighborhood school. The Court of Appeals found that no fairly debatable issue had been raised either as to error in the original adoption of the comprehensive zoning maps or any probative evidence

of any events occurring subsequent to the time of the comprehensive zoning which would show that the Council's assumptions and premises at the time of the comprehensive zoning had been proved invalid by the passage of time.

It seems clear to us that in the consideration of the adoption of the comprehensive zoning map the County Council should have at least determined whether the subject property should remain in the DR 5.5 zone or whether it fell within the provisions of Section 203.2 of the Baltimore County Zoning Regulations, which created the RO zone. That section provides as follows:

The RO zoning classification is established - - - to accommodate houses converted to office buildings and some small class B office buildings in predominately residential areas on sites that because of adjacent commercial activity, heavy commercial traffic, or other similar factors, can no longer reasonably be restricted solely to uses allowable in moderate density residential zones.

The Board of Appeals found that there had been error in the adoption of the map and it is now before us on appeal from the Circuit Court for Baltimore County which affirmed the finding of the Board of Appeals that the property should be in the RO zone. Our consideration of the issue is circumscribed by the legal test previously stated in *Dorsey*, *supra*, (quoting from *Stratakis*, *supra*).

Applying that test, we conclude that the issue as presented to the Board of Appeals was fairly debatable and that the action of the Board was not arbitrary or discriminatory.

JUDGMENT AFFIRMED, COSTS TO BE PAID BY PEOPLE'S COUNSEL FOR BALTIMORE COUNTY.

R. Taylor McLean, Esquire
102 West Pennsylvania Ave
Towson, Md. 21204

Cicero H. Brown, Jr.
1008 Hart Road
Towson, Md. 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
22nd day of September, 1983

ARNOLD JARLON
Zoning Commissioner

Petitioner Russell L. Elliott
Petitioner's Attorney R. Taylor McLean, Esq.

Received by: Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8 Date of Posting 12/9/83

Posted for: Russell L. Elliott

Petitioner: Russell L. Elliott

Location of property: NW 1/4 of Section 10, T. 1, R. 1, E. 1, B. 1

Location of Sign: Intersection of Timonium Rd. & Howard Ave.

Remarks: See map attached

Posted by: Russell L. Elliott

Number of Signs: 1

LSY27 p 68

CERTIFICATE OF PUBLICATION

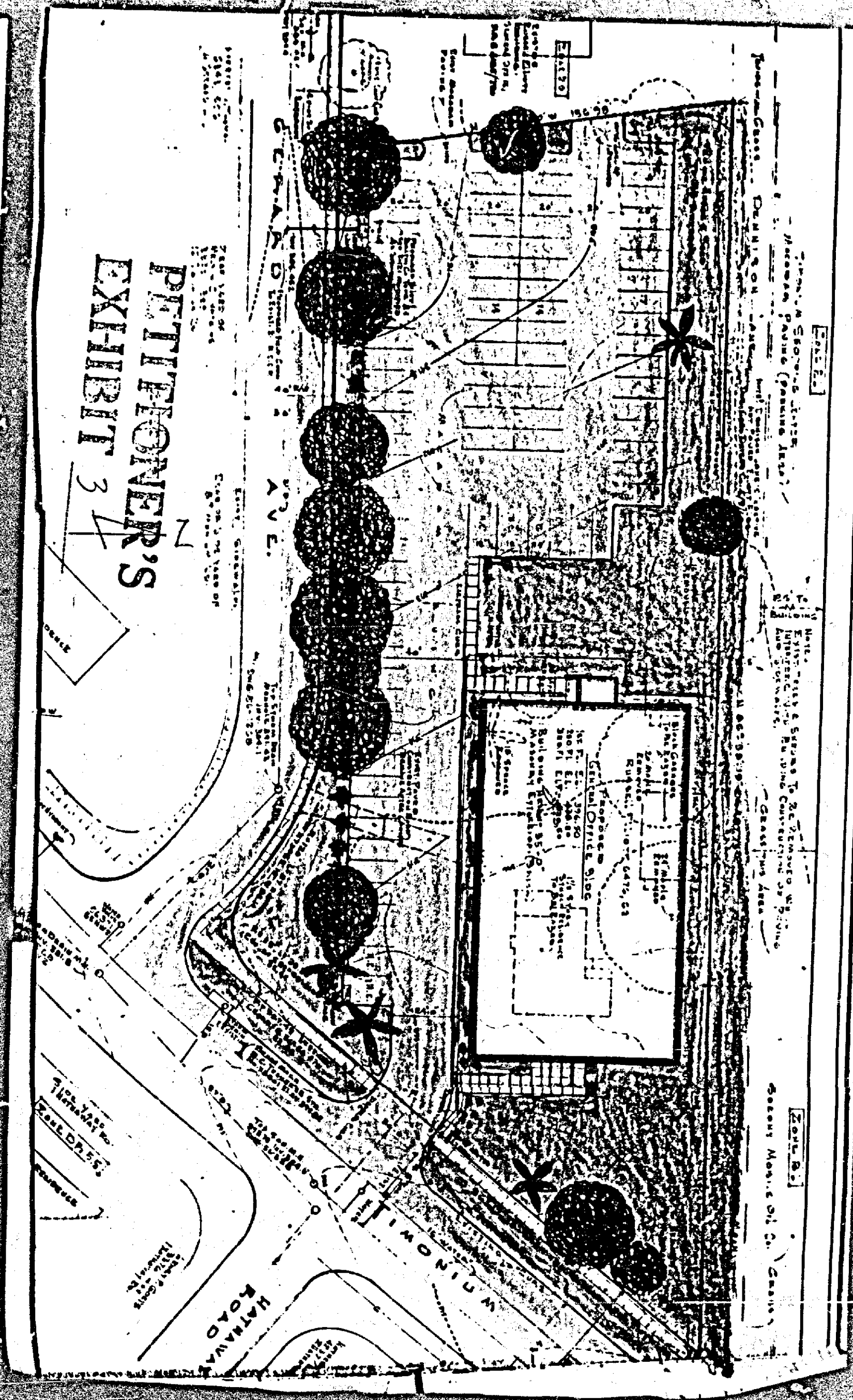
TOWSON, MD. 11/18 1983
THIS IS TO CERTIFY, that the annexed advertisement was published in THE TOWSON TIMES, a weekly newspaper distributed in Towson, Baltimore County, Md., once a week for 1 successive weeks, the first publication appearing on the 12th day of Oct. 1983

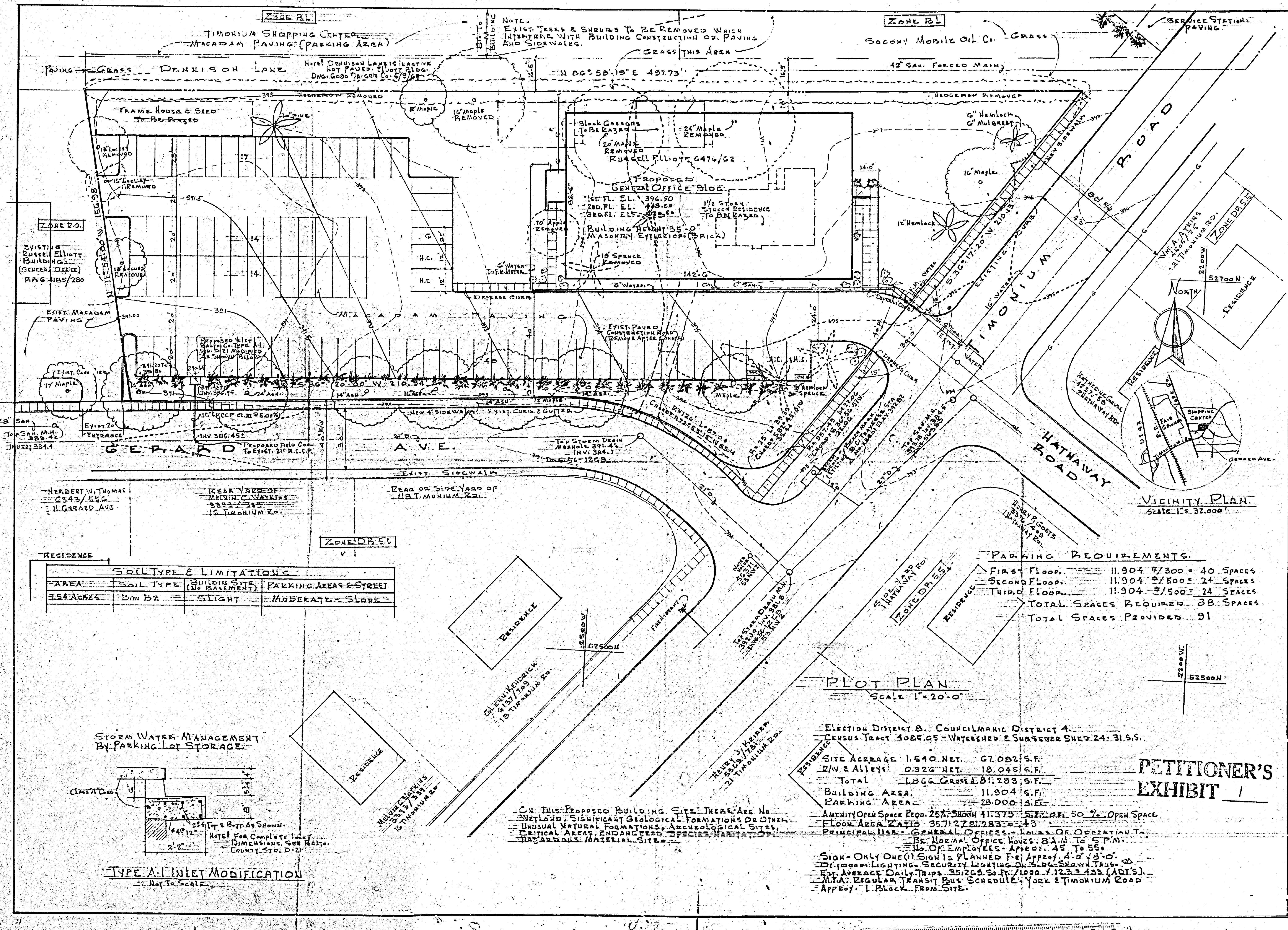
THE TOWSON TIMES
Cost of Advertisement, \$43.68

CERTIFICATE OF PUBLICATION

TOWSON, MD. October 13, 1983
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once a week for 1 successive weeks, the first publication appearing on the 12th day of October, 1983.

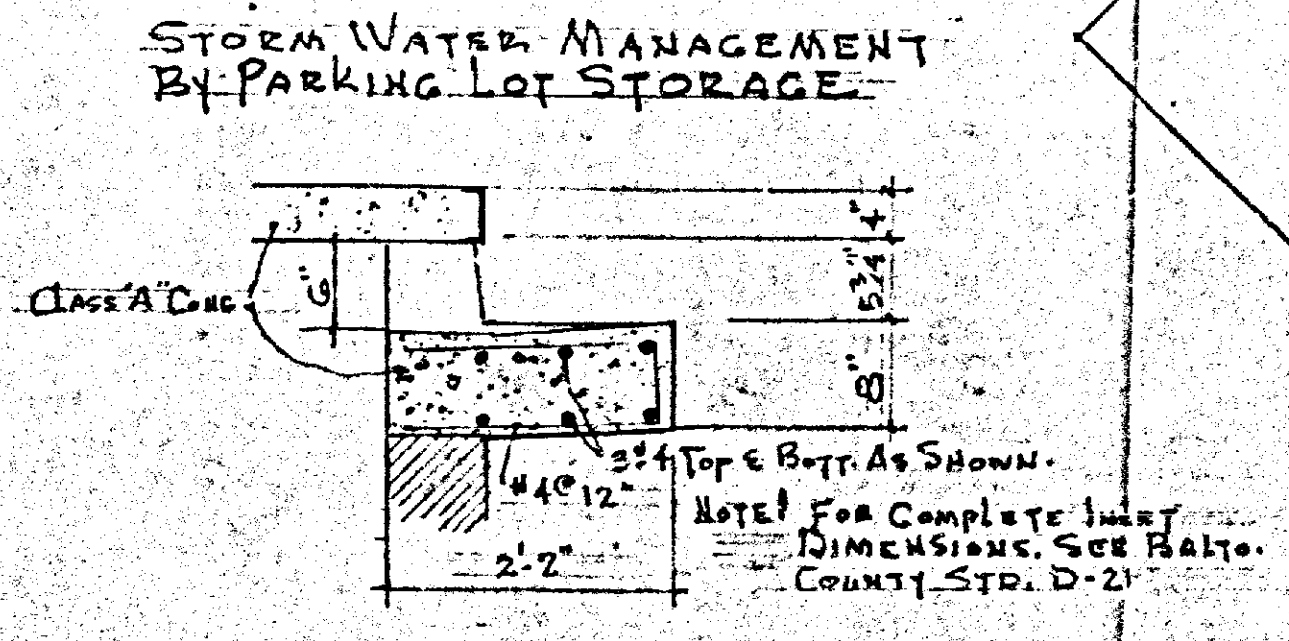
THE JEFFERSONIAN
L. Leank Strickland
Manager.
Cost of Advertisement, \$35.00





SOIL TYPE & LIMITATIONS

AREA	SOIL TYPE	BUILDING SITE (NO BASEMENT)	PARKING AREAS & STREET
3.54 ACRES	Bm B2	SLIGHT	MODERATE SLOPE



PARKING REQUIREMENTS

FIRST FLOOR	11,904 #/300 = 40 SPACES
SECOND FLOOR	11,904 #/500 = 24 SPACES
THIRD FLOOR	11,904 #/500 = 24 SPACES
TOTAL SPACES REQUIRED 88 SPACES	
TOTAL SPACES PROVIDED 91	

PLOT PLAN
Scale 1"=20'-0"

Election District 8. Councilmanic District 4.
Census Tract 4085.05 - WATERSHED 2 SURSEWER SHEET 24-31 S.S.

SITE ACREAGE 1.540 NET. 71.082 S.F.
R/W & ALLEYS 0.326 NET. 18.045 S.F.
TOTAL 1.866 Gross 891.283 S.F.

BUILDING AREA 11,904 S.F.
PARKING AREA 28,000 S.F.

AMENITY OPEN SPACE REQ. 25% SHOWN 41,375 S.F. OR 50% OPEN SPACE
FLOOR AREA RATIO 35712781283 = 143

PRINCIPAL USE - GENERAL OFFICES - HOURS OF OPERATION TO BE NORMAL OFFICE HOURS 8 A.M. TO 5 P.M.
No. Of EMPLOYEES - APPROX. 45 TO 55.

SIGN - ONLY ONE (1) SIGN IS PLANNED FOR APPROX. 4'-0" X 8'-0"
OR 10000 LIGHTING - SECURITY LIGHTING ON 3-20-20 SHOWN THUS -
EST. AVERAGE DAILY TRIPS 351202 S.F. / 1000 X 123 = 433 (AD'S).
M.T.A. REGULAR TRANSIT BUS SCHEDULE YORK & TIMONIUM ROAD
APPROX. 1 BLOCK FROM SITE.

PETITIONER'S
EXHIBIT 1

CICERO H. BROWN, JR.
ARCHITECT
1008 HART ROAD
TOWSON, MARYLAND 21204
Phone 301-252-4403

PROPOSED OFFICE BUILDING
FOR MR. RUSSELL ELLIOTT
TIMONIUM RD. TIMONIUM, MARYLAND
8TH DISTRICT - BALTIMORE COUNTY

PLOT
PLAN

Proj. No. 8201
DATE - 25 AUG 82
SCALE - 1"=20'-0"
LAST REVISED SEPT 83
DRAWING NO.
PP-1
OF 18 SHEETS